

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GERALD FELTON  
Plaintiff,

Administrative Claim No:  
TRT-NER-2018-04961

v.

UNITED STATES OF AMERICA, et., al  
Defendant.

1:19cv472

FILED  
SCRANTON

MAR 15 2019

COMPLAINT UNDER FEDERAL TORT ACT  
(F.T.C.A)  
NEGLIGENCE OF DUTY

PER SA  
DEPUTY CLERK

1. Plaintiff brings this action against defendant, The United States of America, pursuant to the Federal Tort Claim Act (F.T.C.A), so that this court has jurisdiction of the subject matter under 28 U.S.C. §2675 and §1346.
2. Plaintiff is in compliance with all prerequisites to a suit under the Federal Tort Claim Act in that:
  - a. On May 22, 2018, the plaintiff timely filed an administrative claim for the matters in dispute in this action in the amount of \$15,000 dollars based on negligence and personal injury with the Northeast Regional Office, U.S. Customs House - 7th Floor, 2nd and Chestnut, Philadelphia, PA, 19106.
  - b. Furthermore, plaintiff timely notified and filed an administrative claim on August 2, 2018, with the Central Office, 320 First Street, NW, Washington, D.C., 20534. This is for the purpose of Administrative exhaustion.
  - c. The defendant, by and through its agency, the Northeast Regional Office denied plaintiff's administrative claim on November 29, 2018. The notice of denial is attached. (See Exhibit ).
  - d. This action was timely commenced following the denial of administrative claim.
3. Plaintiff brings this tort action against the United States of America, et., al., but unknown to plaintiff, who committed such acts of negligence of duty that are set forth more fully as such:

- a. Defendants failed to act within prison policy to meet a specific standard of care and protection from unreasonable risk, which compromised the obligation of DUTY.
  - b. Defendants failed by the non-compliance of a standard of reasonable care and countermeasures which are duty bound. No prevention for the injuries sustained. BREACH OF DUTY.
  - c. Defendants failed to acknowledge and foresee such negligent actions would cause injury/health issues by subjecting plaintiff to full exposure of contaminated water for drinking and hygiene. CAUSATION OF INJURY.
  - d. Defendants failed to use reasonable care and precautions posed an unreasonable risk to plaintiff health, quality of life and a presumed degree of safety. This includes safety from the very edifice itself. Requires compensation. DAMAGES.
4. As a result of the fault of the defendants, by and through their agents and employees, acting within the scope of their employment, under its full capacity. Plaintiff suffered from prolonged periods of exposure to water with traceable levels of carcinogens and harmful minerals. Abnormal water discoloration being non-potable poses an unreasonable risk of toxicosis, to wit, the defendants failure to properly correct said unlawful health violations regarding the contaminated water supply.
5. These injuries (skin ailments, gastro-intestinal issues), resulted from the negligence of the agents and employees of defendants, acting within the scope of their employment. (See Exhibits).
- a. Per Inmate Prison Policy, the defendant must provide functional plumbing systems, standardized drinking water and adequate/operational showers. Failure of these sanitary requirements contribute to both the risk of conveying water borne diseases and ingestion of contaminated water.
  - b. The defendant failed to provide any sufficient warnings to the inmates concerning the water discoloration and possible health risks from exposure. Within a 100 mile radius (Bucks County, Yardley and several other local areas) Pennsylvania is part of Region III. The defendant, by and through its agency, failed to promulgate a water quality standard. In 1996, the EPA was ordered to do what Congress had mandated, which was to publish a water quality standard for this surrounding area, as well as for Pennsylvania.

- c. Furthermore; the potential dangers in consuming/ingesting water which is discolored and minerally imbalanced (possible traces of manganese and other cancer causing carcinogens), creates a disturbing and damaging effect on one's psyche. As an african american male of age 55, with hypertension, inflammatory prostate and highly prone to prostate cancer, this exposure to contaminated water is a violation of the Clean Water Act, 33 U.S.C.S. §1251-1387.

PRAYER

WHEREFORE, plaintiff respectfully prays that this honorable court enter judgment:

- a. Granting plaintiff a declaration that the acts and omissions described herein violated said rights under the (F.T.C.A) of negligence and the laws of the United States, and;
- b. Granting plaintiff compensatory damages against each defendant in the amount as mentioned;
- c. Granting plaintiff redress for any retaliation and harassment held within the scope of the due course of justice;
- d. Plaintiff further seeks whatever pre and post judgement interest that may be allowed by law;
- e. Any additional relief this court deems just, proper and equitable.

Date: 13 March 2019

Respectfully Submitted,

*Gerald Felton*

Mr. Gerald Felton

<b>CLAIM FOR DAMAGE, INJURY, OR DEATH</b>		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit To Appropriate Federal Agency:  U.S. Department of Justice Federal Bureau of Prisons Northeast Regional Office U.S. Courthouse - 7th Floor 2nd and Chestnut Street Philadelphia, PA 19106		2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, Street, City, State and Zip Code) <i>Mr. Gerald Felton, Reg. No. 14720-056</i> <i>Federal Correctional Institution Schuylkill</i> <i>P.O. Box 759</i> <i>Minersville, PA, 17954</i>			
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN	4. DATE OF BIRTH <i>6-17-63</i>	5. MARITAL STATUS <i>Single</i>	6. DATE AND DAY OF ACCIDENT <i>April 24th, 2018</i>	7. TIME (A.M. OR P.M.) <i>Approx 11:00 am</i>	
8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary.) <i>On the above date the main hot water pipe that serves the housing areas burst. For more that a week there was no heat in the cells nor hot water to take showers in the housing areas. I was forced to endure bone-chilling pain from having to take cold showers in an unheated living area while the outside temperatures were near freezing, both at night and during the daylight hours. I was also forced to use soiled linens. Neither my linens nor my institutional clothing were washed nor exchanged for the whole period of almost two weeks.</i>					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). <i>NA</i>					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See Instructions on reverse side.) <i>NA</i>					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT. <i>I suffered from severe chills and headaches from not being able to adequately bathe myself. I also suffered from severe skin irritations and rashes from not being able to remove all the soap residue as well as not being able to have my linens and institutional clothing washed.</i>					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
<i>NA</i>		<i>NA</i>			
12. (See Instructions on reverse.) AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE  <i>NA</i>	12b. PERSONAL INJURY  <i>15,000</i>	12c. WRONGFUL DEATH  <i>NA</i>	12d. TOTAL (Failure to specify may cause forfeiture of your rights.)  <i>15,000</i>		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.)  <i>Gerald Felton</i>		13b. Phone number of person signing form  <i>NA</i>		14. DATE OF SIGNATURE  <i>22 May 2018</i>	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM  The claimant is liable to the United States Government for the civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729.)		CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS  Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)			

August 2, 2018

Mr. Gerald Felton  
Reg.No. #14720-056  
FCI SCHUYLKILL  
PO BOX 759  
Minersville, PA 17954

Attention:  
Central Office, Bureau of Prisons  
320 First Street, NW  
Washington, DC 20534

Re: Administrative Claim/Claim No. TRT-NER-2018-04961

Dear Sir/Madam:

To comply with the exhaustion of Administrative Remedies and F.T.C.A. requirements, the above mentioned claim is now submitted to fulfill the necessary requirement. For the past 90 days, the institution has experienced numerous problems concerning the water quality for consumption (preparation for meals, drinking and hygiene).

Enclosed you will find a copy of Standard Form 95 and a receipt of the administrative claim. Please forgive the abrupt delay. I have no control of institutional lockdowns or any other disruptions.

*Gerald Felton*

Respectfully Submitted,



## U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

Via Certified and Return Receipt Mail

U.S. Custom House-7th Floor  
2nd & Chestnut Streets  
Philadelphia, PA 19106

November 29, 2018

Mr. Gerald Felton, Reg. No. 14720-056  
FCI Schuylkill  
P.O. Box 759  
Minersville, PA 17954

RE: Administrative Claim No. TRT-NER-2018-04961

Dear Mr. Felton:

Your Administrative Claim, No. TRT-NER-2018-04961, properly received on May 29, 2018, has been considered for settlement as provided by the Federal Tort Claims Act (FTCA), 28 U.S.C. § 2672, under authority delegated to me by 28 C.F.R. § 543.30. Damages are sought in the amount of \$15,000.00 based on a personal injury claim. Specifically, you allege on April 24, 2018, the hot water pipe that serves your housing unit at FCI Schuylkill burst. You allege you experienced "bone-chilling" pain from taking cold showers in an unheated living area. You also state you were forced to sleep on soiled linens and wear soiled clothing. You state you suffered from headaches and skin irritation.

An investigation into your claim, including a review of your medical records reflects between April 24, and May 3, 2018, FCI Schuylkill experienced multiple below ground hot water leaks. Although the hot water system automatically shut-off on April 24, 2018, the identified issue was temporarily repaired that same day, and the system resumed operations. Between April 25, and May 3, 2018, other leaks were identified and repaired. On April 28, 2018, the hot water was turned off until April 30, 2018. On April 30, 2018, hot water was restored to Units 3 and 4, and on May 2, 2018, modified operations were instituted to permit inmates in Units 1 and 2 to take hot showers in Units 3 and 4.

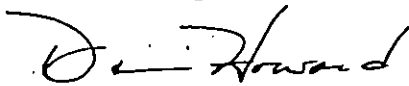
Your claim the outside temperatures were near freezing was not corroborated by the records maintained by the National Weather Service. Although the institution laundry was closed from April 25, through April 27, 2018, the laundry resumed washing clothing on April 30, 2018, and the linen exchange was resumed on May 3, and 4, 2018.

Gerald Felton, Reg. No. 14720-056  
TRT-NER-2018-04961  
Letter Dated November 29, 2018  
Page Two

Your medical records reflect you did not access sick call or seek treatment for medical conditions related to the water leak between April 23, and May 10, 2018. There is no evidence to substantiate your claim you experienced a compensable loss as a result of negligence on the part of any Bureau of Prisons employee. Accordingly, your claim is denied.

If you are dissatisfied with this decision, you may bring an action against the United States in an appropriate United States District Court within six (6) months of the date of this letter.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. Howard", is written over the typed name.

Darrin Howard  
Regional Counsel

cc: Scott Finley, Warden, FCI Schuylkill

TRULINCS 14720056 - FELTON, GERALD - Unit: SCH-C-B

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FROM: 14720056

TO: Health Services

SUBJECT: \*\*\*Request to Staff\*\*\* FELTON, GERALD, Reg# 14720056, SCH-C-B

DATE: 01/02/2019 12:45:02 PM

To: health services

Inmate Work Assignment: orderly

re: sick call on december,31,2018 i was perscribed triamcinolone ointment for my skin ailment by pa steffan, however m.swaboski, may have accidently misplaced my sick call request, please inform me if i have to fill out another, this is for your record as well as mine. i am still having intestinal issues.



BP-S148.055 INMATE REQUEST TO STAFF CDFRM

SEP 98

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) <i>M. Swaboski MSN - FNP-C</i>	DATE: <i>31 Dec. 2018 sick call</i>
FROM: <i>Mr. Gerald Felton</i>	REGISTER NO.: <i>14720-056</i>
WORK ASSIGNMENT: <i>Orderly</i>	UNIT: <i>3-B</i>

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

*I having intestinal issues which were not addressed because of all the commotion*

*Thank You in Advance*

*P.S. Did you find my sick call request for 31 December 2018*

(Do not write below this line)

DISPOSITION:

Signature Staff Member	Date
------------------------	------

Record Copy - File; Copy - Inmate  
(This form may be replicated via WP).

This form replaces BP-148.070 dated Oct 86  
and BP-S148.070 APR 94



BP-S148.055 INMATE REQUEST TO STAFF CDFRM

SEP 98

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) <i>M. Swaboski MSN - FNP-C</i>	DATE: <i>31 Dec. 2018 sick call</i>
FROM: <i>Mr. Gerald Felton</i>	REGISTER NO.: <i>14720-056</i>
WORK ASSIGNMENT: <i>Orderly</i>	UNIT: <i>3-B</i>

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

*I having intestinal issues, which were not addressed because of all the commotion.*

*Thank You in Advance*

*P.S. Did you find my sick call request for 31 December 2018*

(Do not write below this line)

## DISPOSITION:

*Please attend sick call Monday - Friday during breakfast time.*

**M. Swaboski, MSN FNP-C**  
**FBI/EPC Schuylkill**

Signature Staff Member

Date

*1/8/19*

Record Copy - File; Copy - Inmate  
(This form may be replicated via WP)

This form replaces BP-148.070 dated Oct 86  
and BP-S148.070 APR 94



PRINTED ON RECYCLED PAPER

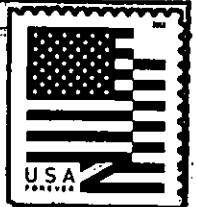
Mr. Gerald Felton

Reg. No. 14720-056

Federal Correctional Institution Schuylkill

P.O. Box 759

Minersville, P.A. 17954



RECEIVED  
SCRANTON

MAR 15 2019

PER

DEPUTY CLERK

⇔ 14720-056 ⇔

U S Dist Court  
u.s. Courthouse

⇔ 14720-056 ⇔

Middle District  
235 N Washington AVE  
P.O. Box 1148  
Scranton, PA 18501  
United States